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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/415,507	10/08/1999	MUKESH DALAL	020431.0562	4917
7590 08/09/2004				
BAKER & BOTTS L L P 2001 ROSS AVENUE DALLAS, TX 752012980		EXAMINER MEINECKE DIAZ, SUSANNA M		
		ART UNIT		PAPER NUMBER
		3623		

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/415,507

Applicant(s)

DALAL, MUKESH

Examiner

Susanna M. Diaz

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-47.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Susanna Diaz*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**

*AI 3623*

Continuation of 2. NOTE: The proposed amendments to claims 1, 11, 22, and 33 would raise new issues under 35 U.S.C. 112, 2nd paragraph because it is not clear how a system can comprise a system per se (or itself). There are no specific system elements. Merely reciting that the system comprises a system also raises issues of a single means claim.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments center around the assertion that the prior art does not teach the recited constraints and culprits; however, Applicant does not provide any special definition for each term. Furthermore, Applicant has not addressed Examiner's interpretation of these terms, as set forth in the art rejection. For example, throughout the art rejection, the Examiner explains that in col. 4, lines 45-48; col. 6, lines 20-23; col. 7, lines 52-66; col. 8, lines 23-49 of Bhaskaran, the overall supply chain planning is optimized and reoptimized for all entities in the supply chain every time a new scenario is proposed. In col. 8, lines 35-42, an assembler's production capabilities exemplify a culprit as the reason why the assembler cannot produce the requested quantity of items. In col. 4, lines 1-5, Bhaskaran states that the causes, or culprits, of constraints include anything from material constraints to capacity constraints to constraints associated with a "volatile demand from various global markets." Examiner maintains this position.